

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

THE STATE OF MISSISSIPPI, EX REL.  
JIM HOOD, ATTORNEY GENERAL  
FOR THE STATE OF MISSISSIPPI,

Plaintiff-Counterclaim Defendant

v.

No. 3:08-CV-780-CWR-LRA

ENTERGY MISSISSIPPI, INC., ENTERGY  
CORPORATION, ENTERGY SERVICES,  
INC., AND ENTERGY POWER, INC.,

Defendants-Counterclaim Plaintiffs

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**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION TO COMPEL AND  
FOR RELATED RELIEF**

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NOW INTO COURT, through undersigned counsel, comes Jim Hood, the Attorney General for the State of Mississippi (the "State" or "Plaintiff"), to respectfully submit this Opposition to Defendants' Motion to Compel and for Related Relief (Doc. 364) ("Motion to Compel"), and requests that this Court deny Defendants' Motion to Compel for the reasons set forth below.

Defendants seek an order of this Court compelling Plaintiff to submit his pre-trial Proposed Findings of Fact and Conclusions of Law no later than noon on April 1, 2019, to continue the start of trial until April 3, 2019, and to require that Plaintiff's post-trial Proposed Findings of Fact and Conclusions of Law be submitted three days before Defendants submit their post-trial Proposed Findings of Fact and Conclusions of Law. Defendants' Motion to Compel is yet another attempt by Defendants to get the last word in this case and to further derail Plaintiff's trial preparations.

The sole support for Defendants' Motion to Compel is the Minute Entry regarding the pre-trial conference in this matter. The March 1, 2019 Minute Entry reads, in part, "Parties were hereby directed to submit their Exhibit and Witness Lists, Final Pretrial Order and Proposed Findings of Fact and Conclusion of Law by March 27, 2019." Defendants interpret the Minute Entry as requiring the parties to submit Proposed Findings of Fact and Conclusion of Law by March 27, 2019, however, Your Honor made it abundantly clear at the March 1, 2019 pre-trial conference that the parties *could* submit such Proposed Findings of Fact and Conclusion of Law *if they chose to do so*. Your Honor stated that, if a party chose to submit such proposed findings and conclusions "on the front end", that the deadline for doing so would be by close of business on March 27, 2019. There was and is no requirement for the Plaintiff to submit *pre-trial* Proposed Findings of Fact and Conclusion of Law, therefore, Defendants' Motion to Compel should be denied. Further, there is no prejudice created by Defendants choosing to submit pre-trial Proposed Findings of Fact and Conclusion of Law, as Defendants' Proposed Findings of Fact and Conclusion of Law appear to be a recitation of their experts' unfounded conclusions and the arguments raised in their motions for summary judgment. As none of this appears to be new information, there can be no prejudice.

Regardless, even if this Court did intend to change its position on the voluntary nature of the pre-trial Proposed Findings of Fact and Conclusion of Law via the Minute Entry (which is not evident from such Minute Entry), Defendants have not shown remotely sufficient cause to delay the trial of this matter, which has been pending for over 10 years and is on its second setting. Proposed Findings of Fact and Conclusion of Law are typically submitted post-trial after all of the evidence has been submitted and legal arguments completed. A party may wish to submit such proposed findings and conclusions prior to trial but there is no requirement in the Federal Rules of Civil Procedure or the Local Rules of this Court to do so.

Finally, Defendants' request that Plaintiff be required to submit his post-trial Proposed Findings of Fact and Conclusion of Law three days prior to Defendants' post-trial Proposed Findings of Fact and Conclusion of Law is another baseless attempt to get the last word in this matter and should be rejected along with Defendants' other requests in its Motion to Compel.

WHEREFORE, Plaintiff Jim Hood, the Attorney General for the State of Mississippi, respectfully requests that this Court deny Defendants' Motion to Compel.

**By: JIM HOOD, ATTORNEY GENERAL  
STATE OF MISSISSIPPI**

/s/ LUKE F. PIONTEK

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### **CERTIFICATE OF SERVICE**

I, Luke F. Piontek, Attorney for the State of Mississippi, do hereby certify that on March 29, 2019, I caused to be electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This the 29<sup>th</sup> day of March, 2019.

/s/ LUKE F. PIONTEK  
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